



**UNITED STATES ENVIRONMENTAL PROTECTION AGENCY
REGION IX
75 Hawthorne Street
San Francisco, CA 94105**

Via email and certified mail

**CERTIFIED MAIL NO. 7013 1090 0000 1618 6371
RETURN RECEIPT REQUESTED
In Reply Refer to:
Puna Geothermal Venture**

Cliff Townsend
Plant Manager
Puna Geothermal Venture
P.O. Box 30
Pahoa, HI 96778

Subject: Finding of Violations, Section 112(r) of the Clean Air Act, and Request for Information

Dear Mr. Townsend:

On August 20-21, 2013, representatives of the United States Environmental Protection Agency ("EPA") conducted an inspection of the Puna Geothermal Venture ("PGV") facility located at 14-3860 Kapoho Pahoa Rd., Pahoa, HI (the "facility"). The inspection was triggered by March 13 and April 2, 2013 releases of hydrogen sulfide ("H₂S") from the facility. The inspection focused on the facility's compliance with the Clean Air Act's ("CAA's") General Duty Clause ("GDC") [Section 112(r)(1)] and Risk Management Program ("RMP") [Section 112(r)(7) and its implementing regulations at 40 CFR Part 68]. A copy of the inspection report is enclosed for your information and response (Enclosure 1).

The facility is subject to the GDC in that hydrogen sulfide ("H₂S"), an extremely hazardous substance, is produced from the geothermal reservoir and is present at the facility. The GDC, which was enacted by Congress in 1990, is designed to minimize the probability and consequences of accidental chemical releases to better protect workers, communities and the environment. Specifically, the GDC requires facilities that produce, use or store extremely hazardous substances to: 1) identify hazards which may result from such releases; 2) design and maintain a safe facility taking such steps as are necessary to prevent releases; and 3) minimize the consequences of accidental releases which do occur. Per EPA guidance,¹ owners and operators who have these substances must adhere, at a minimum, to any government regulations as well as recognized industry standards and practices in order to be in compliance with the GDC.

In addition, the facility is subject to regulation under the RMP because of its use, handling and storage of pentane above the threshold quantity, a regulated flammable substance and a fluid used in the facility's geothermal power production process. RMP requirements that apply to the

1- See www.epa.gov/osweroe1/docs/chem/gdcregionalguidance.pdf.

facility include those to: 1) develop a hazard assessment that details the potential effects of an accidental release, an accident history of the last five years, and an evaluation of worst-case and alternative accidental releases; 2) develop and implement a prevention program that includes safety precautions and maintenance, monitoring, and employee training measures; and 3) develop and implement an emergency response program that spells out emergency health care, employee training measures and procedures for informing the public and response agencies (e.g. the fire department) should an accident occur.

As a result of the investigation, EPA finds that the March 13, 2013 H₂S release was attributable to the tripping of a breaker in the local power grid and that PGV's emergency shutdown and H₂S abatement systems functioned as designed. However, EPA further finds that PGV has not complied with certain requirements under both RMP and GDC statutory and regulatory provisions. These violations are fully described in the enclosed Finding of Violations ("FOV") (Enclosure 2) which provides notice to PGV of the violations discovered through the investigation. EPA notes that most of the violations pertain to RMP requirements and that most of these are past violations which were corrected in 2010. The FOV does, however, cite certain continuing violations of both RMP and GDC requirements which require correction.

Pursuant to Section 114(a) of the CAA, 42 U.S.C. § 7414(a), the Administrator of EPA is authorized to require any person who owns and/or operates an emission source to establish and maintain records, make reports and provide such other information as he/she may reasonably require for the purposes of determining whether such person is in violation of any provision of the Act. Based on the FOV, EPA is requesting PGV's response to the questions outlined in the enclosed Information Request (Enclosure 3).

Please note that failure to respond fully and truthfully may result in enforcement action by EPA pursuant to Section 113(a)(3) of the CAA, 42 U.S.C. § 7413(a)(3). This statutory provision authorizes EPA to seek penalties up to \$37,500 for each day of noncompliance. Please be further advised that provision of false, fictitious, or fraudulent statements or representations may subject PGV to criminal penalties under 18 U.S.C. § 1001. Failure to comply with Section 112(r) of the CAA may potentially result in enforcement action by EPA. Section 113 of CAA (42 U.S.C. § 7413) permits EPA to seek civil and/or criminal penalties for failure to comply with the General Duty Clause and/or the Risk Management Program requirements of CAA Section 112(r). Issuance of this FOV does not prejudice EPA's rights or authority to bring an enforcement action for violations of the CAA.

Please provide a written response to the information request within thirty (30) days of receipt of this letter. Electronic submittals are acceptable. PGV's response should be sent to:

Jeremy Johnstone, Environmental Engineer
U.S. Environmental Protection Agency (SFD-9-3)
75 Hawthorne Street
San Francisco, CA 94105
johnstone.jeremy@epa.gov

PGV is entitled to assert a business confidentiality claim, covering all or part of the information which is included in either PGV's response or EPA's inspection report, except that no such claim can be made with respect to emission data as defined at 40 C.F.R. § 2.301(a)(2). Any such claim

should be made in accordance with the procedures described at 40 C.F.R. § 2.203(b). Enclosure 4 provides an outline for the process for asserting and substantiating a business confidentiality claim. EPA will provide the public with information subject to a claim of business confidentiality only in accordance with the procedures set forth at 40 C.F.R. Part 2, Subpart B. EPA may provide the public with any information not subject to such a claim without further notice. The required submission of information pursuant to Section 114 is not subject to the approval requirements of the Paperwork Reduction Act of 1980, 44 U.S.C. § 3501, *et seq.*

Also, EPA has created a number of helpful resources for small businesses. EPA has established the National Compliance Assistance Clearinghouse as well as Compliance Assistance Centers which offer various resources to small businesses. PGV may inquire about these resources at www.epa.gov/rfa/index.html. In addition, the EPA Small Business Ombudsman may be contacted at www.epa.gov/sbo.

Questions about the legal aspects of this investigation should be directed to Ms. Rebekah Reynolds, Assistant Regional Counsel, U.S. EPA Region 9, at (415) 972-3916 or reynolds.rebekah@epa.gov. The Region 9 technical contact for this matter is Mr. Jeremy Johnstone, who can be reached at (415) 972-3499 or johnstone.jeremy@epa.gov.

I look forward to PGV's response and working with PGV to ensure future compliance at and safe operation of the facility.

Sincerely,

Enrique Manzanilla
Director
Superfund Division

Enclosures (4):

- 1) Inspection Report
- 2) Finding of Violation
- 3) Information Request
- 4) Business Confidentiality Information

cc (via email w/enclosures, excluding inspection report):

B. Ekimoto, HIDOH
G. Kosaki, HI County FD